R.R. No. 3279/05
Presented by Shri Shatrughan Shukla
dated 13/7/05

(1)

IN THE COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. 3076 OF 2005

PETITIONER : Dr. Saroj Kumar Mishra aged 59 years, son of Late Ram Lakhan Mishra, Officer on Special Duty, Directorate of Higher Education, Raipur (C.G.)

VERSUS

RESPONDENTS : 1. State of Chhattisgarh, through the Secretary, Education, Mantralaya, D.K.S. Bhawan, Raipur.

2. Commissioner, Higher Education, Bilaspur

3. Smt. Sarojani Kurmi, R/o. Seepat Road, new Sarkanda, Bilaspur.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS, CERTIORARY AND/OR ANY OTHER SUITABLE WRIT OF LIKE NATURE

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No. 3076 **सन् 200** 5

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	18.7.2005 **I.A. No. 5997/2005** – This is an application for urgent hearing. Application is allowed. **W.P.No.3076/2005** Heard Dr. N.K. Shukla, Sr. Advocate with Shri Shailendra Shukla, for the petitioner and Shri Akhil Agrawal, Panel Lawyer who appears for the State/ respondents no.1 and 2 on advance copy. By this writ petition filed under Article 226/227 of the Constitution of India, the petitioner has challenged the legality and validity of the impugned orders dated 27.12.2004 (Annexure P-8) and 24.6.2005 (Annexure P-11). Annexure P-8 is an order by which the petitioner was transferred from Naveen Kanya Maha Vidyalay, Bilaspur, where he was holding the post of Incharge Principle, to the Directorate of Higher Education on the post of Officer on Special Duty (OSD). Thereafter, now vide order dated 24.6.2005, he has been transferred from the Directorate, Raipur to Government College, Ambagarh Chowki, Distt. Rajnandgaon on the post of Professor in Hindi. Learned counsel for the petitioner submits that in response to the order Annexure P-8, the petitioner had already joined at Raipur. However, just after a few months, now he has been directed to go to Ambagarh Chowki. On the one hand, learned counsel for the petitioner submits that these orders are the outcome of	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

malafide and on the other hand he also submits that these are the frequent transfers of the petitioner in a short span of time. Learned counsel also submits that the petitioner is a recognized guide for Ph.D., in Hindi literature from Guru Ghasi Das University, Bilaspur, and many students are doing Ph.D. under his guidance, therefore, it would be difficult for him to go to his new place of posting which is an institution under the affiliation of Ravi Shankar University, Raipur.

Learned counsel also submits that many posts are vacant in the near by colleges of Bilaspur under the affiliation of Guru Ghasi Das University and if the petitioner is sent to those institutions, he may serve better to the students doing Ph.D.

Learned counsel for the State on the other hand opposed the submissions of the petitioner. He submits that the transfer is an exigency of service and no person, working on a transferable post, can be posted at one place or at the place of his own choice in the tenure of his service.

During the course of arguments, learned counsel for the petitioner makes a limited prayer that for the time being, this petition may be disposed of with a liberty to the petitioner to file a detailed representation before the Secretary concerned of the State Government and the State authority be directed to dispose of the same as early as possible so that the grounds raised by the petitioner are considered and a suitable order may be passed.

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

To this limited prayer made by learned counsel for the petitioner, learned State Counsel has no objection.

Considering the facts and circumstances of the case, this petition is disposed of with a liberty to the petitioner to file a detailed representation raising all his grievances before the concerned secretary of the State within a period of 10 days from today and if such a representation is filed by the petitioner then the concerned Secretary shall be obliged to decide the same as early as possible preferably within a period of one month from the date of receipt of the said representation considering the facts and circumstances and also considering the grounds raised by the petitioner.

This Court hereby directs that in the meanwhile the impugned order contained in Annexure P-11 dated 24.6.2005 shall be kept in abeyance for a period of one month from today, during which period, the representation if filed by the petitioner shall be disposed of by the State.

Accordingly, this petition stands finally disposed of.

C.C. as per rules.

Sd/-
Sunil Kumar Sinha
Judge

Rao